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Application No. 10/593,664  
Reply to Office Action of October 21, 2009

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Docket No.: 86250(70301)

**REMARKS**

In the Office Action dated October 21, 2009, claims 15-35 are pending and rejected. Reconsideration is requested for at least the reasons discussed hereinbelow.

The above amendment is submitted to more particularly point out and distinctly claim the subject matter regarded as invention. No new matter is added. Support can be found in the original specification at least at page 6, 2<sup>nd</sup> paragraph and pages 11-12, bridging paragraph.

Claims 15, 16, 34 and 35 are rejected under 35 U.S.C. §103(a) over Jones (US 3,931,657) in view of Buck (US 5,660,572).

Jones *fails* to teach or suggest a cover as recited in present claim 15. Rather, the zipper-type closure fastener 24 (cf. Fig. 1, col.2, l. 27-32) of the life vest of Jones is not secured by a cover. Thus, Jones neither provides for, nor suggests the present safety concept.

The claimed cover 25, which is particular effective when co-acting with a zip as the second releasable closure means, provides for protection against accidental opening of the second closure means and, thus, provides for improved safety when swimming (page 6, 2<sup>d</sup> paragraph and pages 11-12, bridging paragraph), which is important, e.g., for children learning to swim (page 4, 3<sup>d</sup> and 4<sup>th</sup> paragraphs).

Furthermore, Applicant strongly contests the Examiner's suggestion that cord 23 and grommets 22 would represent a first closure means according to the present invention (cf. item 6 of the Office Action, 4<sup>th</sup> para.) providing for variable body size adjustment. Even if a wearer would try to narrow the lateral opening between front panels 11 and back panels 12 by means of pulling the ring of cord 23 (cf. Figs. 1 and 3), the life vest of Jones would not allow one to set the adjustment of said lateral opening. That is because no means are provided to fix said ring in order to set the adjustment of said

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**lateral opening and, thus, the combination of ring and cord 23 is not designed for body size adjustment.**

Besides, even if the combination cord 23 and grommets 22 would provide for setting the adjustment of the lateral opening, cord 23/grommets 22 would not provide for a variable body size adjustment as recited in present claim 15. The human body is growing both in horizontal and in vertical direction. However, the life vest of Jones would be adjustable in horizontal direction only. Hence, Jones also *fails* to provide the present concept for variable body size adjustment.

Buck fails to make up for the deficiencies of Jones. Buck also fails to teach or suggest at least the claimed cover or a size-variable element that can be adjusted to the body size and having a first, releasable closure means, whereby the variable body size adjustment can be set.

The dependent claims are patentable for at least the same reasons as discussed above.

Thus, it is not seen how the presently claimed invention would have been obvious to one of ordinary skill in the art in view of Jones and Buck.

Claims 15-18, 21-24, 28, 29 and 32-35 are rejected under 35 U.S.C. §103(a) over Kea (U.S. 5,603,648 ) in view of Buck. Kea discloses a velcro fastener 19 supplemented by a pair of hook and eye fasteners (cf. col. 3, l. 19-25; Fig. 2). This concept strongly differs from the swimming aid device according to present claim 15 for the following reasons.

First, a pair of hook and eye fasteners is not a cover as recited in claim 15. Applicant submits that applying a cover to velcro fastener 19 would not secure velcro

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fastener 19 from opening. A closure means in form of a velcro fastener 19 will much more easily be accidentally opened than a zip, that is one pair of hook and eye fasteners (cf. Figs. 1 and 2) will not prevent accidental opening of velcro fastener 19.

Moreover, the outdoor survival garment is a bulky and weighty construction (cf. Fig. 3), since it comprises a plurality of layers and means (heating element layer 25, nutriment layer 26, gas receptacle 22 (cf. col 3, 1. 2836), illuminate fiber optic container 39 comprising light emitting diode leads 37 and rechargeable battery 610 (cf. col 4, 1. 4-7 and 54). Therefore, there is a high risk of accidental opening of velcro fastener 19, since the bulkiness and relatively high weight will not only limit freedom of swimming movements, but in case velcro fastener 19 is partly opened by (extensive) swimming movements, the relatively high weight of the garment of Kea will in turn provide for a further, eventually complete opening of velcro 19.

Buck also fails to make up for the deficiencies of Kea. As discussed above, Buck also fails to teach or suggest a zip with a cover. Nor does it suggest how to transform the bulky and weighty construction of Kea into a swimming aid device, as presently claimed.

The dependent claims are patentable for at least the same reasons as discussed above.

Thus, it is not seen how the presently claimed invention would have been obvious to one of ordinary skill in the art in view of Kea and Buck.

Claims 19-21, 30 and 31 are rejected under 35 U.S.C. §103(a) over Jones in view of Buck and further in view of Samano. Jones and Buck are discussed above. Samano fails to make up for the deficiencies of Jones and Buck. Samano discloses a flag vest. It also fails to teach or suggest the

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claimed cover or a size-variable element that can be adjusted to the body size and having a first, releasable closure means, whereby the variable body size adjustment can be set.

Thus, it is not seen how the presently claimed invention would have been obvious to one of ordinary skill in the art in view of Jones, Buck and Samano.

If for any reason a fee is required, a fee paid is inadequate or credit is owed for any excess fee paid, the Commissioner is hereby authorized and requested to charge Deposit Account No. 04-1105.

In view of the above amendment, Applicant respectfully submits that the pending application is in condition for allowance. An early reconsideration and notice of allowance are earnestly solicited.

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Respectfully submitted,

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